

Appl. No. 09/909,233
Aty. Docket No. CM2505
Amdt. dated 1/27/06
Reply to Office Action of 11/3/05
Customer No. 27752

REMARKS/ARGUMENTS

Claims 9 and 30 have been cancelled herewith. Claims 36-40 stand withdrawn from consideration. Claims 11, 13, 17, 31-34 and 43-44 were previously cancelled.

Claims 1-8, 10, 12, 14-16, 18-29 and 35-42 are under consideration.

Claim 1 has been amended to recite the presence of an anionic surfactant (basis at page 9, line 6) and magnesium chloride (basis at page 22, lines 15-20). Claim 12 has been amended to remove the reiteration of anionic surfactants, in view of the amendment to Claim 1. Claim 1 has been further amended to remove the term "type" to meet the rejection under §112 (below). It is submitted that all amendments are fully supported and entry is requested.

Rejections Under §112

It is submitted that the rejections under §112 (Office Action, pages 2-3) have been met by the removal of the term "type." Withdrawal of the rejections on this basis is requested.

Rejections Under 35 USC 103

Claims 1-8, 10, 12, 14-29, 35, 41 and 42 stand rejected under §103 over U.S. 5,929,007 or JP 60-141,800, both in view of U.S., 6,194,362, U.S. 5,202,050 and JP 8151597, for reasons of record at pages 5-10 of the Office Action. Applicants respectfully traverse all rejections, to the extent they may apply to the claims as now amended.

The rejections of Claim 30 (Office Action page 10) and Claim 9 (Office Action page 11) have been obviated by the cancellation of those claims.

Previous arguments and case law cited in support of patentability continue to apply, but will not be extensively repeated herein for the sake of brevity.

At the outset, it is respectfully submitted that the comments at page 14 of the Office Action with regard to JP 8151597 underscore the fact that the rejections are based on a selective reading of the cited patents, resulting in an impermissible hindsight reconstruction of the claimed invention.

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As discussed in the previous responsive amendment, JP '597 explicitly discloses the "thread pulling" properties of organic-type thickeners. To avoid such thread pulling, JP '597 replaces organic thickeners with clay thickeners.

In the Office Action at page 14, the position is now taken that JP '597 is relied upon for its teaching of particle size and not for the equivalence of clays to gums or for gum thickeners in general.

It is respectfully submitted that a rejection cannot be based on a selective reading of only those parts of a cited document that arguably tend to support the rejection, while ignoring those parts of the self-same document which support patentability.

Whatever else JP '597 teaches, it clearly discloses that the properties of organic thickeners are different from clay thickeners, and that clay should be substituted for – not admixed with – organic thickeners.

Respectfully, having made JP '597 of record, the Examiner should not now ignore the full breadth of its disclosures. Clearly, those disclosures can fairly be said to teach away from mixing the two classes of thickeners in compositions of the present type.

The '007 patent clearly teaches away from the present invention, since it excludes the use of anionic surfactants in the disclosed compositions. See '007 Abstract; column 2, line 20; and, especially, column 5, lines 38-44.

As discussed by the Examiner (Office Action, page 8), the '050 patent teaches the presence of anionic surfactants. Since '007 teaches away from such use, '007 cannot properly be combined with '050 to support a rejection under §103. **MPEP 2145.**

Likewise, JP '597 (page 12 of Translation) teaches the use of anionic surfactants. Again, '007 is not combinable with JP '597 under MPEP 2145.

Moreover, '007 also teaches away from the use of magnesium chloride in the present compositions. See '007, column 5, lines 50-55, which specifies that the water constituent of the disclosed compositions should preferably be substantially free of mineral salts. Accordingly, '007 is not properly citable against the present claims.

JP '800 does not suggest the use of mixed organic/clay thickeners, nor the use of ionone-containing perfumes to mask solvent odors. Nor does the combination of JP '800

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with '050 or JP '597 suggest these combinations. Indeed, as discussed above, JP '597 teaches away from the combined use of the two types of thickeners. Moreover, nothing therein would appear to suggest the ionones to mask the solvent odor, per the amended claims herein. Likewise, the use of magnesium chloride in the overall composition is not fairly suggested, especially in view of '007's teaching away from such use.

With regard to '362, it is submitted that the "most preferred" compositions disclosed therein contain a linear alcohol sulfate surfactant, which is anionic. (Col. 12, lines 3-4.) Accordingly '362 is not combinable with '007 for the reasons discussed above.

Importantly, nothing in '362 relates to thickeners of the mixed type used herein. Indeed, the compositions of '362 are glass cleaners wherein "sheeting," rather than surface cling, is important to the formulation.

Moreover, nothing in '362 relates to the use of magnesium chloride in the disclosed compositions.

Again, JP '800 neither teaches nor suggests mixed thickeners; it teaches the use of anionic surfactants, contrary to '007 (page 5 of Translation); it does not suggest the use of magnesium chloride; and it is silent on the use of ionone/perfumes. '362 adds nothing thereto that would lead one to the present invention.

In short, it is submitted that the cited combination of documents comprises no more than a catalogue listing of various known ingredients. However, nothing therein fairly instructs one skilled in the art which ingredients should be selected and how they should be combined to arrive at the present invention. Indeed, the documents actually teach away from various key aspects of such combination. Absent such instruction (which would necessarily include instructions/motivation to ignore certain of the teachings!), it is submitted that the present invention fully meets the requirements of §103. Reconsideration and withdrawal of all rejections are therefore requested.

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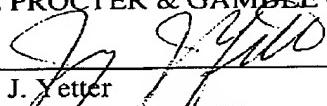
Double Patenting

In order to speed prosecution, submitted herewith in response to the provisional double patenting rejection (Office Action pages 12-14) is a Terminal Disclaimer over U.S. 6,723,692, and copending 09/910,281 (incorrectly referenced in the Office Action as 10/910,281) and co-pending 11/151,027. Withdrawal of the rejection is therefore requested.

In light of the foregoing, early and favorable action in the case is requested.

Respectfully submitted,

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